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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,298	04/20/2004	Peter D. Gonzales	24294.00	2571
37833	7590	09/22/2006		
LITMAN LAW OFFICES, LTD PO BOX 15035 CRYSTAL CITY STATION ARLINGTON, VA 22215			EXAMINER LEE, CLOUD K	
			ART UNIT 3753	PAPER NUMBER

DATE MAILED: 09/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/827,298

Applicant(s)

GONZALES, PETER D.

Examiner

Cloud K. Lee

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/20/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed 4/20/04 fails to comply with 37 CFR 1.98(b)(5) because each publication listed in an information disclosure statement must be identified by publisher, author (if any), title, relevant pages of the publication, date, and place of publication.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the constant radius of curvature is about one-eighth of the outside diameter of the neck portion and the constant radius of curvature is about one-fourth of an inside radius of the pipe must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 8-9, 12 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Williams et al (US Patent No. 6,253,792).

Williams et al disclose a device and its associated method comprising a tubular body (see figure 7 and 8) having a hollow neck portion (48) wherein the tubular body is made from metal (see figure 9), the neck portion having an open first end, a rounded rim (54) wherein the rim curving outward and rearward from the mouth and forming a skirt terminating in a lip (50), wherein the neck portion is cylindrical (see figure 8), wherein the rim is rounded with a constant radius of curvature (see figure 9, a portion of the rim (54) is constant radius), the mouth of the tubular body has a trumpet bell shape (see figure 9), and wherein the rim is rounded with a radius of a curvature gradually decreasing from the mouth to the lip (see figure 9, a portion of the rim

(54) is rounded with a radius of a curvature gradually decreasing). The device is made from metal (see figure 7).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al.

Regarding claim 4, the constant radius of curvature appears to be about one-eighth of the outside diameter of the neck portion, however Williams et al. fail to explicitly disclose the radius of curvature of the rim. In the event that the broadly recited “about one-eighth...” is not met by Williams et al., the examiner takes official notice that this dimension is a results effective variable, i.e. a variable that achieves a recognized result. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have chosen the dimension of the neck portion or the radius of curvature of the rim, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art (see MPEP 2144.05).

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al in view of Truax et al (US Patent No. 6,682,021).

Williams et al fail to disclose an inner surface of the device includes boundary layer turbulators.

Truax et al disclose an inner surface of the device includes boundary layer turbulators (see figure 4A, element 14). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided an inner surface of the device includes boundary layer turbulators in order to improve fluid flow behavior as taught by Truax et al (see Col 6 lines 42-53).

7. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams in view of Clark (US Patent No. 1,608,547).

Williams et al fail to disclose an inner surface of the device comprising a plurality of ribs and grooves extending into the fluid pathway.

Clark discloses an inner surface of the device comprising a plurality of ribs (8, 9, 10 and 11) and grooves (between the ribs 8, 9, 10 and 11 are grooves) extending into the fluid pathway. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided an inner surface of the device comprising a plurality of ribs and grooves extending into the fluid pathway in order to create a rotation motion in the fluid and pull the solid in the fluid to reach the center of the pipe as taught by Clark (see lines 32-55).

8. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al in view of Fuhrmann (US Patent No. 3,974,862).

Williams et al fail to disclose the tubular body is made from plastic or polyethylene.

Fuhrmann discloses a device that is made from plastic and polyethylene (see Col 2 lines 20-24). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the body from plastic or polyethylene in order prevent corrosion as taught by Fuhrmann (see Col 2 lines 20-24).

9. Claims 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Demarest (US Patent No. 358,147) in view of Williams et al.

Demarest discloses a device and its associated method comprising the neck portion of the tubular body (3) is dimensioned fit into an inflow end of a tank (A), but fails to disclose a device having a hollow neck portion, the neck portion having an open first end, a rounded rim wherein the rim curving outward and rearward from the mouth and forming a skirt terminating in a lip.

Williams et al discloses a device comprising a tubular body (see figure 7 and 8) having a hollow neck portion (48) wherein the tubular body is made from metal (see figure 9), the neck portion having an open first end, a rounded rim (54) wherein the rim curving outward and rearward from the mouth and forming a skirt terminating in a lip (50). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the neck portion having an open first end, a rounded rim wherein the rim curving outward and

rearward from the mouth and forming a skirt terminating in a lip in order to crimp the body in place as taught by Williams et al (see Col 6 lines 20-33).

Regarding claim 17, the tank is a catch basin.

Regarding claim 16, the constant radius of curvature appears to be about one-fourth of the inside radius of the pipe, however, the modified Demarest fails to explicitly disclose the radius of curvature of the rim. In the event that the broadly recited "about one-fourth..." is not met by Demarest, the examiner takes official notice that this dimension these dimension is results effective variable, i.e. variables that achieve a recognized result. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have chosen the dimension of the neck portion or the radius of curvature of the rim, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art (see MPEP 2144.05).

10. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Demarest (US Patent No. 358,147) in view of Williams et al as applied to claims 13-15 and 17 above, and further in view of Fuhrmann (US Patent No. 3,974,862).

The modified Demarest fails to disclose the tubular body is made from polyethylene.

Fuhrmann discloses a device that is made from plastic and polyethylene (see Col 2 lines 20-24). It would have been obvious to one of ordinary skill in the art at the time the invention

was made to make the body from plastic or polyethylene in order prevent corrosion as taught by Fuhrmann (see Col 2 lines 20-24).

Conclusion

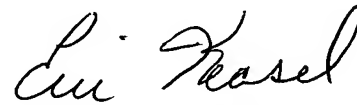
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Everett (US Patent No. 4,442,858) and Hobson (US Patent No. 2,851,193) disclose a similar device.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cloud K. Lee whose telephone number is (571)272-7206. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel can be reached on (571)272-4929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CL



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